

**BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2014-223-C - ORDER NO. 2014-\_\_\_\_  
SEPTEMBER \_\_\_\_, 2014**

|  |   |                       |
|--|---|-----------------------|
| <b>In re:</b>                                  | ) |                       |
|  | ) |                       |
| <b>Application of</b>                          | ) |                       |
| <b>Conterra Ultra Broadband, LLC</b>           | ) |                       |
| <b>For a Certificate of Public Convenience</b> | ) | <b>ORDER GRANTING</b> |
| <b>And Necessity to Provide Local Exchange</b> | ) | <b>CERTIFICATE</b>    |
| <b>Telecommunications Services in</b>          | ) |                       |
| <b>South Carolina</b>                          | ) |                       |
| _____  | ) |                       |

This matter comes before the Public Service Commission of South Carolina ("Commission") by way of the Application of Conterra Ultra Broadband, LLC ("Conterra," "Applicant" or "Company") for authority to provide local exchange telecommunications services within the State of South Carolina (the "Application").

The Company's Application was filed pursuant to S.C. Code Ann. Section 58-9-280, S.C. Code Ann. Section 58-9-585, and the Rules and Regulations of the Commission. By letter, the Commission instructed the Applicant to publish, one time, a prepared Notice of Filing in a newspaper of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in this proceeding. The Company complied with this instruction and has provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was filed by the South Carolina Telephone Coalition ("SCTC"). Subsequently, counsel for SCTC filed a Stipulation with the Commission and SCTC withdrew its opposition to the granting of a statewide Certificate of Public

Convenience and Necessity to the Company provided the conditions contained in the Stipulation are met. A copy of the Stipulation is attached as Order Exhibit 1.

On June 9, 2014, counsel for the Office of Regulatory Staff (“ORS”) filed a letter with the Commission setting out that the ORS had reviewed the Application and did not oppose the Commission granting the Application. The ORS also requested to be excused from the hearing in the Docket. The ORS correspondence of June 9, 2014 is attached as Order Exhibit 2. The Applicant did not object to the ORS request. The Hearing Officer granted the ORS request to withdraw by Directive dated June 11, 2014.

Conterra filed the verified direct testimony of Angela C. Lee in support of the Application. A hearing was held before the Commission’s Hearing Examiner, David Butler on August 18, 2014 in the Commission’s offices. At the hearing, Kelley Boan, Regulatory & Special Projects Manager for Conterra adopted Ms. Lee’s testimony and gave additional testimony from the stand. The company also introduced into evidence its stipulation with the SCTC and a Memorandum of Understanding with the ORS.

According to the record, Conterra is a limited liability company in good standing organized under the laws of the State of South Carolina. As set out in the record, Conterra has requested authority to provide local exchange service to customers in non-rural areas of South Carolina. However, Conterra, which is presently the business of providing cellular backhaul transport; and, access networks and broadband networks for K-12, healthcare and government entities, does not currently plan to offer local exchange telecommunications services, but wants the authority to do so in the future.

In the event that Applicant should provide local exchange telephone service, it has committed that its services will be available on a full-time basis, twenty-four hours a day, seven days

a week, to customers within the geographic boundaries of the State of South Carolina. Customers will be billed by Applicant. Applicant is committed to providing access to a local operator, directory assistance, 911 services, and dual relay services. Applicant is also willing to accept its obligations to collect 911 and dual relay service surcharges from its local exchange customers, and to remit those funds to the appropriate authorities.

The record reflects granting Conterra's Application will provide South Carolinians increased choice, improved quality of service and heightened opportunities to obtain improved technology that will further increase telecommunications competition in the State of South Carolina. Granting of the Application is therefore in the public interest.

The Company commits to abide by all applicable Commission rules, regulations, and orders upon the Company receiving certification to provide local exchange telecommunications service in South Carolina.

The Applicant has requested certain waivers of Commission regulations. The Company requests that it be exempt from any rules or regulations that would require it to keep financial records in conformance with the Uniform System of Accounts ("USOA"), since it will maintain its books in accordance with Generally Accepted Accounting Principles ("GAAP"). The Company wishes to maintain its books and records in its principal place of business. The Applicant also requested that the Company be granted a waiver of Commission Regulation 103-610 so that the Company be permitted to maintain its records outside of South Carolina, and of Regulation 106-631 so that it not be required to publish directories.

Additionally, the Company seeks a waiver of Commission Regulations 103-631 and 103-612.2.3, so that it will not be required to publish local exchange directories or file a map of its service territory if it begins furnishing local exchange telecommunications services.

After full consideration of the applicable law, the Company's Application, and the evidence of record presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

#### FINDINGS OF FACT

1. The Company is a limited liability company which exists under the laws of the State of South Carolina and has been authorized to do business in the State of South Carolina by the Secretary of State.

2. The Company wishes to have permission to provide local exchange telecommunications services in South Carolina.

3. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B) (1).

4. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B) (3).

5. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B) (4).

6. The Commission finds that the services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B) (2).

7. The Commission finds that the provision of local exchange service by the Company “does not otherwise adversely impact the public interest”. S.C. Code Ann. Section 58-9-280 (B) (5).

8. Following execution of the Stipulation with the SCTC, the SCTC withdrew its opposition to the Application.

9. The ORS was permitted to be excused from the hearing and did not oppose granting the application herein.

#### CONCLUSIONS OF LAW

1. The Commission concludes that the Company possesses the managerial, technical, and financial resources to provide the competitive local exchange telecommunications services as described in the Application.

2. The Commission concludes that the Company's "provision of service will not adversely impact the availability of affordable local exchange service.”

3. The Commission concludes that the Company will participate in the support of universally available telephone service at affordable rates to the extent that the Company may be required to do so by the Commission.

4. The Commission concludes that the Company will collect 911 and dual party relay service surcharges, and remit those funds to the appropriate authorities.

5. The Commission concludes that the Company will provide services that will meet the service standards of the Commission.

6. The Commission concludes that the provision of local exchange services by the Company will not otherwise adversely impact the public interest.

7. Based on the above findings of fact and conclusions of law, the Commission determines that a statewide Certificate of Public Convenience and Necessity should be granted to the Company to provide competitive local exchange services. The terms of the Stipulation between the Company and SCTC are approved and adopted as a part of this Order. Any proposal to provide local telecommunications service to rural service areas, regardless of the technology employed, is therefore subject to the terms of the Stipulation.

8. The Commission concludes that the Company's provision of service using IVoIP technology does not, in any way, change or diminish the Commission's authority to regulate the Company in accordance with state law.

9. The Commission concludes the Company's local exchange telecommunications services, regardless of the technology employed, shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

10. We conclude that the Applicant's request for waiver of 10 S.C. Code Ann. Regs. 103-610 should be granted, since strict compliance with the regulation potentially causes

undue hardship on the Company. We also grant exemption from the policies requiring the use of USOA. Last, we grant waivers of 10 S.C. Code Ann. Regs. 103-612.2.3, which requires filing a map of the service territory, and 10 S.C. Code Ann. Regs. 106-631, which requires publication of directories.

11. If at such time Conterra offers retail residential local exchange service, the Company shall comply with 10 S.C. Code Ann. Regs. 103-607 (2012) and Commission's Orders pertaining bond requirements.

12. Conterra shall comply with the verification regulations governing change of preferred carriers as established by FCC.

13. Conterra shall comply with S.C. Code Ann. § 58-9-300 entitled "Abandonment of Service." Additionally, to the extent applicable, Conterra agrees to adhere to the FCC's Rule 47 C.F.R. § 64.1190 and 64.1130 regarding preferred carrier freezes and the requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable document. Prior to abandonment of service, the Company shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity is granted to Conterra Ultra Broadband, LLC to provide competitive local exchange telecommunications services on a facilities-based or resold basis.

2. The terms of the Stipulation between the Company and the SCTC are approved and adopted as part of this Order. The Stipulation is attached as Order Exhibit 1. Any

proposal to provide competitive local exchange telecommunications services to rural service areas is subject to the terms of the Stipulation.

3. The Company shall file, if it has not already done so by the date of issuance of this Order, its local tariffs. The tariffs should be electronically filed in a text searchable PDF format using the Commission's DMS System (<http://dms.psc.sc.gov>). An additional copy should be sent via email to [etariff@psc.sc.gov](mailto:etariff@psc.sc.gov) to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). The tariffs shall be consistent with the findings of this Order and agreements with other parties to this case. The tariffs shall be consistent with the Commission's Rules and Regulations, and shall be filed as stated within 30 days of receipt of this Order. Future revisions to the tariffs should be made using the ETariff System.

4. Conterra is required to comply with Title 23, Chapter 47, South Carolina Code of Laws Annotated which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a 911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs the Company to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate authorities is to be made before providing voice or dial tone telephone service in South Carolina. Accompanying this Order as Order Exhibit 3 is a memo from the State 911 Office at the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing voice or dial-tone services within South Carolina, the Applicant is directed to contact the 911 Coordinator in



each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

5. The Applicant shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of South Carolina specific information. Therefore, the Company shall keep financial records on its South Carolina operations to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website or at the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Applicant to file annual financial information as directed by the Commission or ORS and shall be filed no later than April 1<sup>st</sup>. Commission gross receipts forms are due to be filed no later than August 31<sup>st</sup> of each year. The proper form for filing gross receipts information can be found at the ORS website [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov) and the appropriate form is entitled "Gross Receipts Form."

Each telecommunications company certified in South Carolina is required to file annually with the ORS the South Carolina Universal Service Fund ("USF") Contribution Worksheet, which may be found on the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The State USF worksheet is due to be filed annually no later than July 1<sup>st</sup> with the ORS.

6. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level,

customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. The Company shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). This form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced. If the Company changes or modifies its name, the Company shall file such changes with the Commission for approval.

7. The Company shall conduct its business in compliance with Commission decisions and orders, both past and future.

8. The Company is granted a waiver of 10 S.C. Code Ann. Regs. 103-610 requiring the Company to maintain its financial books and records within the State of South Carolina. As a condition of being granted a waiver of the requirement to maintain corporate books and records within the State of South Carolina, the Company shall make such books and records available, at the Company's expense, to the Office of Regulatory Staff upon request. Further, the Company is granted a waiver of the requirement that books and records be maintained in accordance with the Uniform Systems of Accounts ("USOA"). The Company is directed to comply with all Rules and Regulations of the Commission, unless the Commission specifically waives compliance with a regulation.

9. Having considered the record before it, the Commission finds that it is sufficient to make a final determination in this matter and that the interests of judicial economy are served by waiving the formal hearing and granting expedited consideration.

10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

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**Nikiya “Nikki” Hall, Chairman**

ATTEST:

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**Swain E. Whitfield, Vice Chairman**  
(SEAL)